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OFFICE OF PETITIONS

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| In re Application of | : | |
| Ben Rached, et al. | : | |
| Application No. 10/583,580 | : | ON PETITION |
| Filed: December 8, 2008 | : | |
| Attorney Docket No. NRT.0227US | : | |

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 23, 2011.

The petition under 37 CFR 1.181 is GRANTED.

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action mailed July 9, 2010. This Office action set an extendable period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on October 10, 2010. The Office mailed a Notice of Abandonment on February 1, 2011.

Petitioner states that he did not receive the July 9, 2010 final Office action. In support thereof, petitioner has included a copy of master docket report, showing all of the firm's replies docketed for a due date of October 9, 2010.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.¹ A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."² "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."³

In view of the master docket report submitted on petition, it is concluded that petitioner has established that he did not receive the July 9, 2010 final Office action.

The application is being forwarded to Group Art Unit 2617 for re-mailing of the July 9, 2010 final Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

¹ See MPEP 711.03(c)(II).

² MPEP 711.03(c)(II) (emphasis added).

³ Id.